

**CONNECTICUT SITING COUNCIL**  
**DOCKET NO. 318**

IN THE MATTER OF:

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AN APPLICATION OF CELLCO PARTNERSHIP d/b/a/ VERIZON WIRELESS  
FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND  
PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE AND  
OPERATION OF A WIRELESS TELECOMMUNICATIONS FACILITY AT  
1191 TERRYVILLE ROAD, BRISTOL, CONNECTICUT

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APPLICANT'S POST-HEARING BRIEF

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## POST-HEARING BRIEF

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## **I. INTRODUCTION**

On July 27, 2006, Cellco Partnership d/b/a Verizon Wireless ("Cellco" or "Applicant") filed with the Connecticut Siting Council ("Council") an application (the "Application") for a certificate of environmental compatibility and public need ("Certificate"), pursuant to Sections 16-50g et seq. of the Connecticut General Statutes ("Conn. Gen. Stat."), for the construction, maintenance and operation of a wireless telecommunications facility in the City of Bristol ("Bristol"). (Cellco Exhibit 1 ("Cellco 1")). Cellco's proposed "Bristol West Facility" would fill significant coverage gaps along Routes 6 and 72 and local roadways in the westerly portion of the Bristol and easterly portions of the Town of Plymouth ("Plymouth"). (Cellco 1, pp. 1-2). Cellco's network currently experiences an approximately 1.2 mile coverage gap along Route 6 and a 2.1 mile coverage gap along Route 72 between Cellco's existing Bristol, Bristol West 2 and Plymouth cell sites. These coverage problems must be resolved in order for Cellco to continue to provide high-quality, uninterrupted wireless telecommunications coverage within its service area consistent with its Federal Communications Commission ("FCC") license and the demands of its wireless telecommunications users. (Cellco 1, pp. 1-2, 7-8; Tab 7).

Cellco has presented, for the Council's consideration, a site which would satisfy its coverage objective in the Bristol area. The proposed tower would, at the request of the landowner, be disguised as a flag pole and would be capable of supporting antennas for additional carriers. (Cellco 1, p. 2). To date, no other wireless carriers have committed to share the Bristol West Facility. (Cellco 5).

The Council conducted a public hearing on the Application on October 19, 2006. (Transcript ("Tr.") (afternoon) p. 2). Prior to the afternoon session of the hearing, the Council and

its staff visited each of the proposed cell site. At the Council's request, Cellco caused a balloon, with a diameter of approximately 4 feet, to be flown during the site visit at the proposed cell site location starting at 12:30 p.m. (Cellco 1, p. 13; Tr. (afternoon) p. 15).

This post-hearing brief is filed on behalf of the Applicant pursuant to Section 16-50j-31 of the Regulations of Connecticut State Agencies ("R.C.S.A.") and the Council's directives. (Tr. (evening) p. 8). This brief evaluates the Application in light of the review criteria set forth in Section 16-50p of the Connecticut General Statutes.

## **II. FACTUAL BACKGROUND**

### **A. Pre-Application History**

Cellco conducted a search for an appropriate location for a facility to fill significant coverage gaps along Routes 6 and 72, as well as local roadways in the area between its existing Bristol facility, a roof-top installation at 32 Valley Street in Bristol, Bristol West 2 facility, a tower installation at 371 Terryville Road in Bristol and its Plymouth facility, a tower installation at 171 Town Hill Road in Plymouth. (Cellco 1, p. 7). None of these existing facilities can resolve the existing coverage problem that Cellco is experiencing along Routes 6 and 72 and the surrounding area. (Cellco 1, pp. 9-10, Tab 7).

In an effort to avoid the unnecessary proliferation of towers, Cellco explored several properties, existing CL&P transmission line structures and an existing tower at Plymouth Town Hall as possible alternatives. (Cellco 1, pp. 9-10, Tab 9). Each of these alternative structures and/or locations were rejected because they would not adequately fill the existing coverage gaps in the Bristol area. (Cellco 1, Tab 9).

If a new tower must be constructed, Cellco attempts to identify sites where the construction of a tower would not be inconsistent with area land uses and/or where the visual impact of the site

is reduced to the greatest extent possible. To minimize the impact of a new tower in this case, Cellco has, at the request of the landowner, proposed to disguise the tower as a flagpole. (Cellco 1, pp. 2-3; Tr. (afternoon) p. 30).

B. Local Contacts

On May 26, 2006, Cellco representatives met with Bristol Mayor William Stortz. During the meeting, Mayor Stortz received copies of technical information summarizing Cellco's plans for the Bristol West Facility. Because the Bristol West Facility is within 2,500 feet of the Town boundary, Cellco representatives also met with Plymouth Town Planner William Kuehn, designee for Plymouth Mayor Jan Krampitz. Cellco representatives also received comments on the proposal for Bristol's City Planner Alan Weiner. At Mr. Weiner's request, Cellco flew a balloon at the proposed cell site on July 7, 2006, so that he might assess, on his own, the visual impact of the facility tower. (Cellco 1, p. 16; Cellco 3). Mr. Weiner observed, based on the balloon test that the Bristol West tower is "a pretty unobtrusive structure". (Tr. (afternoon) p. 8). Mr. Weiner also submitted written comments dated June 7, 2006. (Cellco 3; Tr. pp. 6-10). Bristol Mayor William Stortz also appeared at the Council hearing and confirmed that he "heard of no negative comments relative to Verizon". (Tr. (evening) p. 7).

C. Tower Sharing

Consistent with its practice, Cellco regularly explores opportunities to share its facilities with other wireless service providers. Cellco will design the approved Bristol West tower so that it could be shared by other carriers, known and unknown at the time of the Council's decision. (Cellco 1, p. 10). Representatives of Cingular Wireless, prior to the filing of the application, expressed an interest in sharing the Bristol West Facility. More recently, Cellco was informed that Cingular Wireless was not currently interested in the site. (Cellco 5, Supp. Resp. 21).

D. The Bristol West Proposal

Cellco proposes to construct a tower at a location that would satisfy its RF coverage needs in the area. (Cellco 1, pp. 1-2). The proposed site is located in the Town's R-40 Residential zone district and is currently used for commercial recreational purposes by the property owner, the Pequabuck Golf Club of Bristol, Inc. (Cellco 1, pp. 1-2, Tab 1; Bulk File 1c.). At the site, Cellco would construct a 120-foot tall telecommunications tower disguised as a flagpole. Cellco would install a total of six (6) panel-type antennas, three (3) PCS antennas with their centerline at the 117-foot level on the tower and three (3) cellular antennas with a centerline at the 107-foot level on the tower. Equipment associated with the antennas would be located in a 12' x 30' shelter located near the base of the tower. All site improvements associated with the proposed Facility would be located within a 55' x 70' leased area. Access to the site would extend from School Street over the existing paved driveway, a distance of approximately 1,100 feet to the cell site. Both the tower and leased area have been or will be designed to accommodate additional carriers. (Cellco 1, pp. 1-2, Tab 1).

III. THE APPLICATION SATISFIES THE CRITERIA OF CONN. GEN. STAT. § 16-50p FOR ISSUANCE OF A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED

Section 16-50p of the Public Utility Environmental Standards Act (the "Act"), Conn. Gen. Stat. §16-50g et seq., sets forth the criteria for Council decisions in Certificate proceedings and states, in pertinent part:

In a certification proceeding, the council shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, limitations or modifications of the construction or operation of the facility as the council may deem appropriate . . . The council shall file, with its order, an opinion stating in full its reasons for the decision. The council shall not grant a certificate, either as proposed or as modified by the council, unless it shall find and determine: (1) A public need for the facility and the basis of the need; (2) the nature of the probable environmental impact, including a specification of every

significant adverse effect, whether alone or cumulatively with other effects, on, and conflict with the policies of the state concerning the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish and wildlife; (3) why the adverse effects or conflicts referred to in subdivision (2) of this subsection are not sufficient reason to deny the application. . . .

Conn. Gen. Stat. § 16-50p(a).

Under Section 16-50p, the Applicant must satisfy two key criteria in order for the Application to be granted and for a Certificate to issue. First, the Applicant must demonstrate that there is a “public need for the facility.” Conn. Gen. Stat. § 16-50p(a)(1). Second, the Applicant must identify “the nature of the probable environmental impact” of the proposed facility through review of the numerous elements specified in Conn. Gen. Stat. § 16-50p(a)(2), and then demonstrate that these impacts “are not sufficient reason to deny the application.” Conn. Gen. Stat. § 16-50p(a)(3). The evidence in the record for this docket establishes that the above criteria have been satisfied and that the Applicant is entitled to a Certificate.

A. A Public Need Exists for the Bristol West Facility

The first step in the review of the pending Application addresses the public need for the proposed facility. As noted in the Application, the FCC in its Report and Order released on May 4, 1981 (FCC Docket No. 79-318) recognized a public need on a national basis for technical improvement, wide area coverage, high quality and a degree of competition in mobile telephone service. (Cellco 1, pp. 5-6). More recently, the Federal Telecommunications Act of 1996 (the “Telecommunications Act”) emphasized and expanded on these aspects of the FCC’s 1981 decision. Among other things, the Telecommunications Act recognized an important nationwide public need for high quality personal wireless telecommunications services of all varieties. Id. The Telecommunications Act also expressly promotes competition and seeks to reduce regulation in all

aspects of the telecommunications industry in order to foster lower prices for consumers and to encourage the rapid deployment of new telecommunications technologies. Id. The Council took administrative notice of the Telecommunications Act. (Cellco 1, pp. 5-6; Council Adm. Notice 7).

The record in this docket contains ample, written evidence and testimony that Cellco antennas at the 117-foot and 107-foot levels on the proposed flagpole tower would allow Cellco to achieve and maintain high quality wireless telecommunications service without interruption from dropped calls and interference. (Cellco 1, p. 7, Tab 7). The record in this docket would support a finding by the Council that Cellco antennas are proposed to be located at the lowest possible height needed to satisfy its coverage objectives and fill the existing coverage gaps along Routes 6 and 72 between its existing Bristol, Bristol West 2 and Plymouth facilities. (Cellco 3, Resp. No. 24).

B. Nature of Probable Impacts

The second step in the statutory review procedure addresses the probable environmental impacts of the proposed facility and particularly the following factors:

1. Natural Environment and Ecological Balance

The proposed development of the 1191 Terryville Road site has eliminated, to the extent possible, impacts on the natural environment. At the proposed Terryville Road site, Cellco intends to use an existing paved driveway on the property for its access way from School Street, the nearest public road, to the cell site. Construction of the cell site compound will be limited to the 55' x 70' leased area. The site compound was located so as to limit the unnecessary removal of substantial trees (greater than 10-inch diameter) from the property. (Cellco 1, Tab 1; Cellco 3, Resp. 16). In order to create a level compound area, Cellco will build a small retaining wall around the southwesterly corner of the site compound. The installation of the retaining wall will allow Cellco



to further reduce the amount of clearing required and limit site grading to the area within the leased parcel. (Cellco 1, Tab 1; Cellco 3, Resp. 17).

## 2. Public Health and Safety

Cellco has considered several factors in determining that the nature and extent of potential public health and safety impacts resulting from installation of the proposed facility would be minimal or nonexistent.

First, the potential for the proposed Terryville Road site tower to fall does not pose an unreasonable risk to health and safety. The proposed flagpole tower would be designed and built to meet Electronic Industries Association (“EIA”) standards. (Cellco 1, Tab 1, p. 6; Cellco 3, Resp. 19). The fall radius of the Terryville Road site tower would remain completely within the Pequabuck Golf Club property. Other than the proposed equipment shelter, a portion of an existing golf course maintenance barn is within the fall radius of the tower. (Cellco 1, Tab 1-Project Plans).

Second, worst-case potential public exposure to radio-frequency (“RF”) power density for Cellco operations at the nearest point of uncontrolled access (the base of each tower) would be 11.13% of the FCC standard for the Terryville Road site. Power density levels at each site would drop off rapidly as distance from the flagpole increases. (Cellco 1, p. 14, Tab 1, p. 8).

## 3. Scenic Values

As noted in the Application, the primary impact of any tower facility is visual. (Cellco 1, pp. 12-13). Cellco’s site search methodology, described in the Site Search Summary, is designed in large part to minimize the overall visual impact of such facilities. (Cellco 1, Tab 9). As discussed above, wherever feasible, Cellco attempts to avoid the construction of a new tower by first attempting to identify existing towers or other tall non-tower structures in or near its search area. (Cellco 1, Tab 9). Cellco identified six existing tower and/or communications facilities within four

miles of the proposed Bristol West Facility. Cellco already has antennas on the roof of a building at 32 Valley Street in Bristol (Cellco's Bristol Facility) and at the highest available heights on the existing towers at 171 Town Hill Road in Plymouth and 371 Terryville Avenue in Bristol. (Cellco 1, pp. 9-10, Tab 9). There were no existing tall structures in or near the Bristol West search area properly located or tall enough to satisfy Cellco's objectives. (Cellco 1, pp. 9-10, Tab 9).

If it determines that a new tower must be constructed, Cellco attempts to identify sites where the construction of a tower would not be inconsistent with area land uses and where the visual impact of the site would be reduced to the greatest extent possible. Visual impact of a tower facility can be further reduced through the proper use of alternative tower structures; so-called "stealth installations." Where appropriate, telecommunications towers camouflaged as, for example, flagpoles, trees and church bell towers, can help to reduce visual impacts associated with more traditional telecommunications towers. (Cellco 1, p. 12). In the Bristol West docket, Cellco has, at the request of its landlord, asked the Council to consider the use of a stealth tower application, in this case a flagpole tower. Even though the visual impact of the proposed site is minimal, the stealth application in this instance helps to further reduce the overall visual impact of this tower. (Cellco 1, p. 12, Tab 10).

There are only two residences within 1,000 feet of the Bristol West Facility, the closest of which is approximately 900 feet to the west. (Cellco 1, p. 12). The visual impact of the tower from these nearest residences and other surrounding residential areas is significantly reduced or entirely eliminated by (1) changes in the topography of the area; (2) screening provided by surrounding trees; and (3) by the design of the tree tower. (Cellco 1, p. 12, Tab 10).

As the record indicates, the location of the proposed flagpole tower has allowed Cellco to propose structures at the minimum height required to satisfy its capacity needs in the area while

eliminating, to the extent possible, visual impact on the surrounding landscape. (Cellco 1, Tabs 1 and 10).

4. Historical Values

As it does with all of its tower applications, prior to filing the Application with the Council, Cellco requested that the State Historic Preservation Office (“SHPO”) of the Connecticut Historical Commission (the “Commission”) review the proposed sites. (Cellco 1, Tab 11). Based on his review of the information submitted by Cellco, the Deputy State Historic Preservation Officer determined that the development of a telecommunications tower at the sites proposed would have “no effect” on historic, architectural or archaeological resources listed on or eligible for the National Register of Historic Places. (Cellco 1, p. 18, Tab 11). Cellco has no reason to believe that there are any other impacts on historical values not addressed by the Commission’s review that are sufficient to warrant a denial of this Application.

5. Recreational Values

There are no recreational activities or facilities at the Bristol West Facility that would be adversely impacted by the proposed tower development. (Cellco 1, Tab 10).

6. Forests and Parks

There are no State Forest or State Park facilities located at or near the Bristol West Facility.

7. Air and Water Quality

a. Air Quality. The equipment associated with the proposed Bristol West Facility would generate no air emissions under normal operating conditions. (Cellco 1, Tab 1, p. 7). During power outage events and periodically for maintenance purposes, Cellco would utilize an on-site emergency backup generator to provide emergency power to the facility. The use of the generator during these limited periods would result in minor levels of emissions. Pursuant to

R.C.S.A. § 22a-174-3, Cellco will obtain an appropriate permit from the Connecticut Department of Environmental Protection (“DEP”) Bureau of Air Management prior to installation of the proposed generator. (Cellco 1, Tab 1, p. 7).

b. Water Quality. The proposed Bristol West Facility would not utilize water, nor would it discharge substances into any surface water, groundwater, or public or private sewage systems. There are no lakes, ponds, rivers, streams, wetlands or other regulated water bodies located at or adjacent to the Bristol West Facility. The closest water body or wetland to the cell site is located more than 300 feet to the north. Thus, the proposed facility would not impact local water quality. (Cellco 1, Tab 1, p. 7; Cellco 6).

Cellco proposes to install a propane-fuel back-up generator within its equipment building for use during power outages. (Tr. (afternoon) pp. 22-24). Cellco does not expect the proposed facility to impact water quality in the area.

8. Fish and Wildlife

As a part of its National Environmental Policy Act (“NEPA”) Checklist, Cellco received comments on the proposed facility from the U.S. Department of Interior, Fish and Wildlife Service (“USFWS”) and the Environmental and Geographic Information Center of the DEP. Both the USFWS and the DEP have confirmed that no known populations of Federal or State Endangered, Threatened or Special Concern Species occur at the site. (Cellco 1, p. 13, Tab 11).

C. The Application Should Be Approved Because The Benefits Of The Proposed Facility Outweigh Any Potential Impacts

Following a determination of the probable environmental impacts of the proposed facility, Connecticut General Statutes § 16-50p requires that the Applicant demonstrate why these impacts “are not sufficient reason to deny the Application.” Conn. Gen. Stat. § 16-50p(a)(3). The record establishes that the impacts associated with the proposal would be limited and outweighed by the

benefits to the public from the proposed facility and, therefore, requires that the Council approve the Application.

As discussed above, the only potential adverse impact from the proposed flagpole tower involves "scenic values." As the record overwhelmingly demonstrates, both of the proposed towers would have minimal impacts on scenic values in the area. (Cellco 1, p. 12, Tab 10). These limited aesthetic impacts may be, and in this case are, outweighed by the public benefit derived from the establishment of this facility. Unlike many other types of development, telecommunications facilities do not cause indirect environmental impacts, such as increased traffic and related pollution.

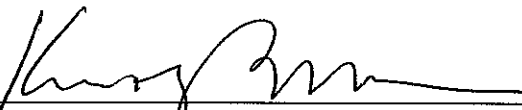
The limited aesthetic and environmental impacts of the proposed facility can be further mitigated by the sharing of the facility. The proposed facility would be capable of supporting additional carriers. (Cellco 1, pp. 9-10).

In sum, the potential environmental impacts from the proposed facility would be minimal when considered against the benefits to the public. These impacts are insufficient to deny the Application. The site, therefore, satisfies the criteria for a Certificate pursuant to Connecticut General Statutes § 16-50p, and the Applicant's request for a Certificate should be granted.

#### IV. CONCLUSION

Based on the evidence contained in the record and the arguments presented above, Cellco has satisfied the criteria in Connecticut General Statutes Section 16-50p. Accordingly, the issuance of a Certificate to the Applicant is appropriate and fully consistent with the Act.

Respectfully submitted,  
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WIRELESS

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